



PATENT
P56103C

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

DOUGLAS E. TRENT *et al.*

Serial No.: 09/666,804

Examiner: WILLIAM L. BANGACHON

Filed: 21 September 2000

Art Unit: 2635

For: PORTABLE SECURITY CONTAINER

SECOND PETITION UNDER 37 C.F.R. §1.181

Paper No. 21

Attention: Office of Petitions

Commissioner for Patents

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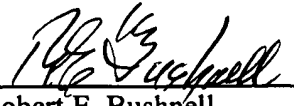
Sir:

Applicants respectfully petition from the Communication from the Examiner dated 27 July 2005 (Paper No. 20050718) in response to the Applicants' Petition filed on 15 June 2005 (Paper No. 19) relative to the incomplete Office action mailed on 9 June 2005 (Paper No. 20050509), as reasons therefor, states that:

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Folio: P56103C

Date: 8/4/05

I.D.: REB/kf

STATEMENT OF FACTS

1. On the 9nd of June 2005, a non-final Office action was issued (Paper No. 20050509).
2. A PTO-892 form citing six (6) U.S. patent references was attached to Paper No. 20050509.
3. In paragraph 13 of Paper No. 20050509, the Examiner rejected claims 13 through 22 and 29 through 34 under 35 U.S.C. §103 for alleged unpatentability over Wagener, U.S. Patent No. 6,111,505, which was cited in the PTO-892 attached to Paper No. 20050509, in view of Hulick *et al.*, U.S. Patent No. 5,825,626.
4. The Hulick *et al.* '626 reference is not listed on the PTO-892 form attached to Paper No. 20050509.
5. On 15 June 2005, Applicants filed a Petition requesting issuance of a Supplemental Notice of references Cited (PTO Form 892) citing the Hulick *et al.* '626 reference and re-start of the period for response to expire not less than three (3) months from the date on which the Supplemental Notice of references Cited (PTO Form 892) is provided to Applicant by the Examiner.
6. On 27 July 2005, the Examiner issued an Office Communication and provided Applicants with a Supplemental Notice of references Cited (PTO Form 892) citing the Hulick *et al.* '626 reference. However, the Examiner refused to re-start the period for response and stated that "the time period for response starts on the date of the mailing of the non-final Office action mailed on June 9, 2005 because the Office action provided the patent

number and inventor of the missing reference that was relied upon in rejecting applicant's claims and made available to the application" (quoting from the Examiner's Response section on page 2 of the Office Communication dated 27 July 2005 (Paper No. 20050718).)

7. A copy of a Decision on Petition for Serial No. 09/615,652 previously issued by Group Director to grant similar relief requested by Applicant to reset period for reply is attached.

REMARKS

The Decision on Petition for Serial No. 09/615,652 clearly states on the second page of the Decision that:

"Although current Office practice is not to provide copies of U.S. Patents or U.S. Publications with Office communications, and even though examiner did indicate the Patent No. of the Hwang reference that was being relied upon in the Office action, *the examiner did not list the Hwang reference on the citation of art (i.e., form 892) which accompanied the action.* Therefore, *the Office action mailed March 22, 2005 was deficient*" (emphasis supplied.)

It is again note that, although current Office practice is not to provide copies of U.S. patents or U.S. patent publications with Office communications, and even though Examiner did indicate the patent number of the Hulick *et al.* '626 reference that was

being relied upon in the Office action, the Examiner did not list the Hulick *et al.* '626 reference on the citation of art, that is PTO-892, which accompanied the action. It is submitted, therefore, the Office action mailed on 9 June 2005 (Paper No.20050509) was deficient.

Given that the error was brought to the attention of the Office within one (1) month of the mailing date of the action, in accordance with MPEP §710.06, the time period for response should be reset and restarted with the re-mailing of the Supplemental Notice of references Cited (PTO Form 892).

RELIEF REQUESTED

In view of the above, the Commissioner is respectfully requested to direct the Examiner to:

- A. Re-start the period for response to expire not less than three (3) months from 27 July 2005 on which the Supplemental Notice of references Cited (PTO Form 892) was provided to Applicants by the Examiner; and
- B. Grant such other and further relief as justice may require.

Respectfully submitted,



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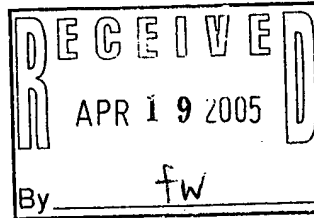
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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re Application of
Yang-Yeon Lee
Application No. 09/615,652
Filed: July 13, 2000
For: **METHOD FOR INFORMING A
TRANSMITTING MODULE OF ERROR
OCCURRENCE IN A RECEIVING PART
OF A FACSIMILE**

:
: DECISION GRANTING PETITION
: TO RESET PERIOD FOR REPLY
:
:

This is a decision on the petition filed on March 31, 2005, requesting that the shortened statutory period for reply set forth in the Office communication mailed on March 22, 2005 be reset and restarted.

Petitioner states that the non-final Office action relied upon a reference, i.e., Hwang (U.S. Pat. No. 5,822,084), but that the Hwang reference was not listed on either an 892 or form 1449 submitted by applicant.

MPEP §710.06 [R-2] Situations When Reply Period Is Reset or Restarted, states in part:

Where the citation of a reference is incorrect or an Office action contains some other defect and this error is called to the attention of the Office within 1 month of the mail date of the action, the Office will restart the previously set period for reply to run from the date the error is corrected, if requested to do so by applicant. If the error is brought to the attention of the Office within the period for reply set in the Office action but more than 1 month after the date of the Office action, the Office will set a new period for reply, if requested to do so by the applicant, to substantially equal the time remaining in the reply period. For example, if the error is brought to the attention of the Office 5 weeks after mailing the action, then the Office would set a new 2-month period for reply. The new period for reply must be at least 1 month and would run from the date the error is corrected. See MPEP § 707.05(g) for the manner of correcting the record where there has been an erroneous citation.

37 C.F.R. § 1.104 Nature of examination, states in part:

(a) Examiner's action ...

(2) The applicant, or in the case of a reexamination proceeding, both the patent owner and the requester, will be notified of the examiner's action. The reasons for any adverse action or any objection or requirement will be stated in an Office action and such information or references will be given as may be


useful in aiding the applicant, or in the case of a reexamination proceeding the patent owner, to judge the propriety of continuing the prosecution. [emphasis added]

Although current Office practice is not to provide copies of U.S. Patents or U.S. Publications with Office communications, and even though examiner did indicate the Patent No. of the Hwang reference that was being relied upon in the Office action, the examiner did not list the Hwang reference on the citation of art (i.e., form 892) which accompanied the action. Therefore, the Office action mailed March 22, 2005 was deficient.

Accordingly, the petition is GRANTED.

Given that the error was brought to the attention of the Office within 1 month of the mail date of the action, in accordance with MPEP §710.06, the time period will be reset and restarted with the re-mailing of the Office action.

The application record will be forwarded to the examiner to complete a supplemental Notice of References Cited, specifically listing the Hwang reference. From there, the application will be forwarded to the Technology Center's technical support staff for remailing the Office action with the supplemental Notice of References Cited prepared by the examiner.



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